

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,)	
)	
Plaintiff,)	CR 09-00712-PHX-DGC
)	
vs.)	Phoenix, Arizona
)	February 21, 2012
Dennis Mahon and Daniel Mahon,)	
)	
Defendants.)	

BEFORE: THE HONORABLE DAVID G. CAMPBELL, JUDGE

REPORTER'S PARTIAL TRANSCRIPT OF PROCEEDINGS

TRIAL - GOVERNMENT'S REBUTTAL CLOSING ARGUMENT BY MR. BOYLE

Official Court Reporter:
Patricia Lyons, RMR, CRR
Sandra Day O'Connor U.S. Courthouse, Suite 312
401 West Washington Street, Spc. 41
Phoenix, Arizona 85003-2150
(602) 322-7257

Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

A P P E A R A N C E S

For the Government:

U.S. Attorney's Office
By: **MICHAEL T. MORRISSEY**, ESQ.
By: **JOHN Z. BOYLE**, ESQ.
40 North Central Ave., Ste 1200
Phoenix, AZ 85004

For Defendant Dennis Mahon:

Federal Public Defender's Office
By: **DEBORAH L. WILLIAMS**, ESQ.
By: **MILAGROS CISNEROS**, ESQ.
850 W. Adams St., Ste 201
Phoenix, AZ 85007

For Defendant Daniel Mahon:

Law Office of Barbara L. Hull
By: **BARBARA L. HULL**, ESQ.
637 N. 3rd Ave., Ste 3
Phoenix, AZ 85003

P R O C E E D I N G S

(The following partial transcript is the government's rebuttal closing argument by Mr. Boyle.)

THE COURT: Thank you. Please be seated. You may proceed, Mr. Boyle.

MR. BOYLE: Thank you.

There was a lot of name calling. My goal here is to actually stick to the evidence, try to piece the threads of evidence that you have and put them together for you so you can go from step 1, 2, and 3. But there are a couple things I want to clear up before I begin that. And the first is some of the legal instructions you'll be given.

The first one was a lot of discussion here about the indictment and we're bound by the indictment.

Your instructions tell you the indictment is not evidence. That will be Jury Instruction Number 2. Your duty at this point is to follow the law in the closing instructions, and it tells you your job as jurors. So if you follow the final instructions by the Court, the law you are to use when you deliberate, you will see it says the indictment is not evidence. What is evidence is what comes in from the witness stand and the exhibits that you can consider as evidence.

Another suggestion that was made is if there is

14:36:07 1 evidence out there that didn't come in, you can assume it was
2 bad.

3 You won't see that anywhere in your final
4 instructions. The evidence -- the instruction in Number 6
14:36:15 5 tells you what you're to consider is what comes in from the
6 witness stand and the exhibits, again.

7 So don't let any party, either side, tell you if it
8 didn't come in you should assume it was bad for one side or
9 the other because that's not what your instructions tell you.

14:36:32 10 Let's start with the Scottsdale bombing incident.
11 And I'd like to start and begin with when we do this, talk
12 about Scottsdale bombing.

13 You heard a general theme of the defense case here
14 was, well, listen, Dennis just brags and he talks a lot and he
14:36:53 15 doesn't really means what he says; he drinks sometimes.
16 There's a fundamental problem with that argument, and that's
17 what I've described here.

18 If that's true, why is he whispering on February 5th
19 when he's teaching her to make a cardboard box bomb? Why is
14:37:09 20 he looking for overhead planes when they're driving around?
21 Why does he tell her don't talk about anything illegal on the
22 phone? Or encourage her not to describe what she did but
23 merely send newspaper clippings of her actions? Why does he
24 call his friend, Dennis Mahon call his friend, Mr. Kountze,
14:37:24 25 and say, "Hey, she's doing really good stuff down there, send

14:37:28 1 her some money"? Why would he have her go to Mr. Joos to
2 learn how to blow things up if he didn't mean it? Why would
3 he give her instructions on wearing gloves and any number of
4 other pieces of evidence you have?

14:37:41 5 When the defense tells you it's just talking, well,
6 it is talking, but it's more than talk, and we'll address
7 that. But there is sincerity behind the words because you can
8 see from his conduct and how he behaves that it isn't just
9 talk, that it has a reason.

14:38:03 10 Let's talk about Catoosa. This will be the first
11 part of what I discuss with you. The overall is he describes
12 on February 2nd that he had a bomb that worked. I'll play you
13 the clip where he said "I spent hours on it." He does not say
14 Scottsdale police spent hours on it, he says "I spent hours on
14:38:18 15 it."

16 He describes a 1-by-5-inch pipe bomb which amazingly,
17 you may decide, hasn't been discussed at all by the defense in
18 their argument, which we brought up in our opening statement
19 and said to you Dennis Mahon knew how the bomb was made. A
14:38:33 20 critical piece of information that, 11 months after the
21 bombing, who knows how the bomb was made? And not just that
22 it was a pipe bomb. A pipe bomb was not released to the
23 public. He describes the exact dimensions of the pipe bomb.

24 You heard from Agent Moreland there are hundreds of
14:38:50 25 different ways to make a pipe bomb. Dennis Mahon --

14:38:54 1 MS. HULL: Objection. Outside the scope, Judge.

2 THE COURT: Overruled.

3 MR. BOYLE: -- describes not only that it's a pipe
4 bomb, but the exact dimensions, the exact dimensions of the
14:39:03 5 pipe bomb.

6 And then finally, on the 5th he teaches her the same
7 bomb. And that's important because if you look at the tapes
8 from the 1st and 2nd, he's teaching her an envelope bomb that
9 weighs less than a pound.

14:39:15 10 If you watch the tapes, you'll see they're talking
11 about mailing and stamps. You've heard some of those calls.
12 He discusses whether you have to go to the counter. That's an
13 envelope bomb. That's different than the cardboard box bomb
14 that I'll play for you, and you will see some of the words and
14:39:30 15 perhaps hear them now that maybe you didn't hear before that
16 will show you there's a lot more in this recording than you
17 might have perceived initially.

18 Remember, again, any of the transcripts that you've
19 heard or any of these arguments that are presented to you are
14:39:44 20 just our argument to you. You are the sole deciders of what's
21 on these tapes. But it may be that when you see some of these
22 words and you hear the statements, you will find pieces of
23 evidence you didn't see before.

24 So this is February 2nd. This is Dennis Mahon
14:40:03 25 discussing.

14:40:07 1 (Video played.)

2 MR. BOYLE: The description, again, that you just
3 heard, he's talking about an envelope bomb.

4 (Video played.)

14:41:24 5 MR. BOYLE: This is a small point, but the bomb that
6 was made was purchased -- all of the pieces were generic.
7 There is a shred of evidence there for you to consider which
8 is when Dennis Mahon says buy all these parts from other
9 locations, that is consistent with the Logan bomb. No
14:41:42 10 specific piece from that bomb could be traced.

11 This is a recording you've heard.

12 (Video played.)

13 MR. BOYLE: I would remind you as well, you will not
14 have transcripts when you go back. You've heard a lot of
14:42:35 15 these recordings with transcripts, but when you go back to the
16 jury room, because your memory and the videotapes control, you
17 won't have the transcripts you had during the trial. So if
18 there are recordings here, you can see some of the time
19 stamps, you may want to write those down so you can go back to
14:42:49 20 them at a later time.

21 (Video played.)

22 MR. BOYLE: I'm going to stop that because it seems
23 pretty clear this idea of cops going on the Internet, somehow
24 finding Dennis Mahon, going to him and asking him about how to
14:43:30 25 make a bomb and then him actually deciding, even though he's

14:43:33 1 paranoid of helicopters and recordings, somehow telling police
2 officers how to make a bomb, is so absolutely incredible that
3 it hasn't been put forward to you as a real story, but what it
4 does is it does uncover a part of the story that Mr. Morrissey
14:43:50 5 told you, which is the police being Dennis Mahon's alterego.

6 You've heard questions about this bomb not being
7 personal. You will see, not only from this recording but
8 others, that this was very personal to Dennis Mahon. And I
9 think you've seen evidence from joining WAR in the '90s to a
14:44:16 10 videotape where he talks about being a terrorist to the
11 manuals that he has in his house to the manual on urban
12 guerrilla warfare that he bought in 2003 to his teachings to
13 his statements that this is a very personal thing to Dennis
14 Mahon. WAR and its beliefs and Tom Metzger, they're as
14:44:36 15 personal to him as they could be.

16 (Video played.)

17 MR. BOYLE: Did you see him there using his hands
18 describing a 5 inch by 1 inch. Again, he has knowledge of how
19 the bomb was made. Only the bomber would know that. This is
14:45:18 20 within 11 months.

21 There's no one piece of evidence in this case that
22 will convince you, maybe, that Dennis Mahon is the bomber.
23 But there are so many pieces of evidence that, when you put
24 them together, you cannot escape the conclusion based on the
14:45:34 25 evidence before you that he is the person who mailed the bomb.

14:45:37 1 And this is one of those compelling pieces. Knowing exactly
2 how the bomb was made is something only the person who bombed
3 Don Logan would know.

4 You've heard the testimony from Agent Moreland, Agent
14:45:53 5 Bettendorf and even the defense expert, Mr. Hanson, all
6 agreeing the mockup was correct. And put this slide up here
7 about the bomb dimensions for you just to illustrate the point
8 that this pipe nipple was about four and a quarter, four and a
9 half inches long. When you put the end caps on there, it ends
14:46:12 10 up being 1-inch-by-5-inch pipe bomb. And that will be back
11 there for you. You won't have to consider just the statements
12 of the witnesses but you also have the photograph of the
13 remnant and the mockup which everyone agrees to showing you it
14 is in fact a 1-inch-by-5-inch pipe bomb.

14:46:26 15 Here's where we get to pieces of evidence that may
16 not have been so clear at the beginning just by the fact we're
17 playing tapes, and hours and hours for you during trial. But
18 when you go to these specific references, you see a couple
19 things.

14:46:41 20 (Video played.)

21 MR. BOYLE: Contact, battery, electric match. That
22 ends up being important because it is the firing train for the
23 Logan bomb, and also not the firing train for the Revlon bomb
24 in 2000. You heard Agent Moreland tell you the bombs were not
14:47:12 25 similar because the Revlon bomb had an arming switch. There's

14:47:15 1 no discussion about an arming switch here.

2 Aside from the testimony of Agent Moreland they're
3 absolutely different, you hear Dennis Mahon describe the
4 firing train for the Logan bomb.

14:47:24 5 And then we get back to this point again. Why is he
6 whispering? Because he is teaching her how to make a bomb.
7 He is basically teaching her how to send a bomb to a person so
8 that person can be murdered.

9 Here's another small piece of evidence.

14:47:42 10 (Video played.)

11 MR. BOYLE: Ask yourself if you just heard him
12 describe where to put the switch. Where to put the switch on
13 this cardboard box bomb so that before he sees it he flips
14 this up, describing the lid at that point, and then what
14:48:38 15 happens? Contact, 9-volt battery, boom. The same thing you
16 have here.

17 He placed the switch in the same place as Exhibit 69,
18 and he's described if you conceal it in the right place, it
19 will be effective because the person who's opening the package
14:48:56 20 won't see it and the bomb will go off.

21 That's exactly what happened.

22 And he describes the battery that should be used.

23 Defense attorney brought up Mr. Pappas. Fine.

24 Mr. Pappas, he dug a hole in his backyard so he could kill
14:49:10 25 himself. He dug the hole so no one else would be hurt when he

14:49:13 1 committed suicide. And what did he do? He lit a fuse to kill
2 himself by a pipe bomb. He didn't use a 9-volt battery, he
3 lit a fuse I think on a 2-inch pipe, you have to recall in
4 your memory on that, to kill himself so no one else would be
14:49:29 5 hurt. That's it.

6 No connection to Don Logan; no evidence whatsoever.
7 He had a 9-volt battery in his house, but it didn't even match
8 the Logan bomb.

9 But the point is, you can say Mr. Pappas and you can
14:49:42 10 say pipe bomb, but that's all you have. And there's no
11 similarity whatsoever.

12 When you look at Dennis Mahon and he describes the
13 contact and then the type of battery to use, you again see a
14 connection between the Logan bomb.

14:49:56 15 The shrinkwrap. You've seen these photographs.
16 Again, the suggestion, oh, anyone could build this bomb. No.
17 You have to have some expertise in some areas to put this
18 together.

19 And remember the testimony from Agent Moreland that
14:50:10 20 this was a very dangerous bomb to build because once you
21 connect the battery, that thing is live. If you haven't done
22 a good job, it will blow you up because it had no arming
23 switch.

24 And so one of the pieces that shows you technical
14:50:24 25 proficiency was the shrinkwrapped wiring. It's not one of

14:50:29 1 those little hex nuts you put to wires and screw together.
2 It's not taped together. Someone with electrical expertise
3 put this together. Again, another piece connecting the Mahons
4 in this case. An important piece of evidence that shows you
14:50:47 5 electrical proficiency.

6 The multimeter. This comes back again to the Logan
7 bomb. Which is this bomb needed to be assembled correctly
8 because you had to make the bomb, do the lid, and then turn it
9 over, connect the battery, and then seal the bottom. That's
14:51:03 10 the only way to do this.

11 The only way to make this bomb safe so you don't get
12 blown up is that after you put the switch and close the lid on
13 the top and flipped it over is to then check to see if that
14 switch has made sure the circuit wasn't complete. And you use
14:51:18 15 a multimeter. You use that on the wire. And then before you
16 connect the battery, you're sure, okay, there's no circuit
17 here that's connected all the way through.

18 So you hear that Dennis Mahon described the exact
19 tool he would use in the Logan bomb, again, without an arming
14:51:36 20 switch, so you had to use something like this if you were
21 going to make the Logan bomb.

22 (Video played.)

23 MR. BOYLE: You've heard about the will. It's been
24 described here for you. Basically, Daniel Mahon gets the
14:52:18 25 money; Tom Metzger gets \$5,000; he wants to be buried next to

14:52:24 1 Robert Matthews.

2 All right, it's a will. Well, let's talk about some
3 things that are different about this will.

4 The end of the will isn't a will. Look what he's
14:52:32 5 written. He talks about why he fought his fight, the need for
6 a violent fight, the memory of Bob Matthews and Tim McVeigh.
7 This isn't a what you put in your will you're sending to your
8 dad so when you die what you have is split up. This is what
9 you send when you're planning something. When you, on the
14:52:57 10 13th of February, realize that if you're going to assemble and
11 put a battery clip on a live bomb and you might die and you
12 are making sure that this is sent out so that if you get
13 caught -- Dennis Mahon didn't want to get caught, but he knew
14 that he could get caught. And if he did get caught, he wanted
14:53:17 15 to make sure people would see his will.

16 Tim McVeigh is obviously a reference to bombing.
17 Robert Matthews, going down shooting.

18 Dennis Mahon was thinking of these things when he
19 wrote this will he week this bomb was made. Why? It's not a
14:53:33 20 coincidence. The timing and his own words tell you that he's
21 thinking they'll come to him and when people see his will
22 they'll know what Dennis Mahon stood for.

23 He wrote the will and had people sign it the very
24 same day. Now, that may not be that unusual, but it is
14:53:48 25 somewhat unusual. You may find that there was something

14:53:51 1 significant about him writing it up that day and having people
2 sign it that day to make sure it was complete on the same day.

3 What was the urgency? There was an immediacy to his
4 actions on the will, and that is the Scottsdale bombing.

14:54:11 5 You heard about the letter. This thing was sent
6 certified mail. If Dennis Mahon isn't dying in the next week
7 or two, perhaps, then he doesn't need to send it certified, he
8 can just mail it to his dad. And if it doesn't arrive, he can
9 make another one. He doesn't need to send it certified mail
14:54:28 10 unless he wants to be sure it gets to where it's going.

11 Dan lives with him. If he's going to write a will,
12 he can just say "Dan, here's my will. You get everything
13 except Tom Metzger gets 5,000." There is no reason to mail
14 it. The reason you send a certified letter with your will is
14:54:47 15 because something is going to happen.

16 Connection between the phone call and the will.
17 There is a very clear connection. On the 26th of September,
18 Dennis Mahon calls Logan's office. The White Aryan
19 Resistance, you may find, is a group that engages in
14:55:02 20 terrorism; that they believe in terrorism.

21 You can ask yourself, was this forecasting? Was this
22 sending a message? He didn't want to get caught, but if he
23 was going to get caught he wanted to make sure people knew
24 what he stood for.

14:55:16 25 That's the reason you write the will that week. You

14:55:19 1 have forecasted what you have done. If they put the pieces
2 together and they come for you, you're going to go down,
3 you're going to go down shooting and you're going to want to
4 make sure everyone knew what you stood for.

14:55:31 5 Was he prepared to die for what he said? This is the
6 tape from Rockford.

7 (Video played.)

8 MR. BOYLE: You'll notice in that call two things:
9 One is he describes what's worth going down for and what's not
14:56:04 10 worth going around for. And you also see him looking around
11 for recording devices.

12 KARE TV.

13 (Video played.)

14 MR. BOYLE: There were things Dennis Mahon was
14:56:24 15 prepared to die for.

16 Phone calls. By themselves you can't really tell
17 exactly what's happening with these phone calls. That's
18 agreed. You don't know what people are talking about. But if
19 you have other evidence, if you have connections between
14:56:37 20 people and you have evidence of knowledge of the bomb and how
21 it was made and other pieces of evidence from the videotapes,
22 then you can say, all right, what else do we have? And you
23 can see in this call that Dennis Mahon was in contact with the
24 phone number used by Tom Metzger on the White Aryan Resistance
14:56:53 25 newspaper.

14:56:55 1 These are the exhibits. 215 is the list that shows
2 you the toll calls, and you will see that down at the left
3 I've used the article that shows the White Aryan Resistance
4 that was sent to the informant and the WAR Metzger phone
14:57:10 5 number is put on there.

6 You have heard about the connections to Robert Joos
7 and the phone call made, but you see again there are phone
8 calls between Dennis Mahon and Tom Metzger surrounding the
9 bombing.

14:57:23 10 You heard a discussion here about the drive.
11 Ms. Hull talked to you about what was said at a corner. Now,
12 this is another one where you have to decide what's on the
13 tape because no one can tell you. And you may find that once
14 you hear Daniel Mahon, you cannot unhear what he says. And
14:57:41 15 here it is. Watch his hands. You will see Daniel Mahon put
16 his hands over his face and turn to Dennis and whisper. And
17 ask yourself if you see "Logan's from," and he points. Now,
18 no one can tell you what building, but when you hear "Logan's
19 from" and you can see the complex he's pointing to, you can
14:58:02 20 see there's something that's going on in his mind. He's
21 covering up his mouth. "Logan's from."

22 (Video played.)

23 MR. BOYLE: One more time.

24 (Video played.)

14:58:36 25 MR. BOYLE: Watch Dennis. Watch Dennis Mahon.

14:58:46 1 (Video played.)

2 MR. BOYLE: You can take this back to the jury room.

3 You may want to watch this one. It's at 15:31:58. Daniel

4 Mahon is saying to his brother "Logan's from" and he's

14:58:55 5 pointing to the city hall buildings.

6 Now there's a discussion about whether it's a complex

7 or Civic Center One. But in his mind he's pointing to that

8 area and he's saying "Logan's from."

9 Ms. Hull described how they were, I think her words

14:59:13 10 were "terrified" about the parking garage. Well, there's a

11 question about whether they're really terrified about the

12 parking garage or not. I'm not even sure I would agree so far

13 they were terrified. But I think you can see there is clear

14 nervousness by both of these individuals about where they're

14:59:32 15 at, and it's not a parking garage. Because you can see when

16 they're on the roadway here, and as you can see in the bottom

17 left, they're not.

18 When Dennis Mahon is describing what's going on, you

19 are going to see him put his hand over his mouth again and say

14:59:44 20 "let's go, baby." Watch him.

21 (Video played.)

22 MR. BOYLE: That's where you heard Daniel say, "Pop a

23 cap in his goddamn ass" and Dennis Mahon says, "I didn't plant

24 the bomb, I helped make it." But watch Dennis Mahon one more

15:00:20 25 time.

15:00:20 1 (Video played.)

2 MR. BOYLE: Personal? You're going to see personal
3 in this call, or this recording, at 181. This is where he
4 talks about the special letters.

15:00:50 5 (Video played.)

6 MR. BOYLE: Finally, we come to this diagram again.
7 When you watch this recording you can see again they're facing
8 towards the top of the picture that shows the overhead city
9 view, Daniel gesturing towards this city hall area. And even
10 Inspector Casadei, along with Agent Moreland, you may find,
11 agreed that these streets show the signs, and the drive and
12 the mistakes that Daniel Mahon made were consistent with what
13 the bomber made. You have to evaluate that. But remember, if
14 you see the package, 3939 North 75th Street, these are the
15 things you would see if you were on that roadway.

16 Here's another piece of evidence. Dennis Mahon knows
17 there were no prints on that bomb. He knows. How did
18 Daniel -- Dennis Mahon know the bomber left no prints? He
19 knows because he wiped everything down. How else would he
20 know they never found out who it was?

21 If you watch this recording, he's talking about they
22 don't get prints off the bomb. How does he know that? How
23 does he know the person didn't leave a print inside?

24 You heard there were no prints at all. And in fact
15:03:04 25 the area of that switch, that whole area that was swabbed was

15:03:09 1 just a suspected print because the latent print examiners
2 never found any prints on this bomb. But Dennis knew.

3 (Video played.)

4 MR. BOYLE: He knew. He knew there were no prints on
15:03:31 5 that bomb.

6 The box. It was unblemished. There was no one who
7 put other tape on there, no other stamps on there. The person
8 who made that bomb knew if you would have to go to the
9 counter. The bomber knew the one-pound mailing rule and
15:03:50 10 Dennis Mahon knew the one-pound mailing rule.

11 There's a question about the library. Well, how
12 would he know it went to the library? Ask any of you, just to
13 yourself. Ask yourself, if you wanted to send a package to
14 someone at the City of Phoenix and you made a package and you
15:04:06 15 went over to a city building and dropped it off in the city
16 building, it would get -- if you put on there, like, the head
17 of whatever, city offices deliver mail internally. If you go
18 to the front desk and leave package there, it's going to find
19 its way to the person you intend to mail it to.

15:04:23 20 The note. People discuss how this was cop talk. And
21 I remind you of Daniel Mahon when he was just giving
22 descriptions. And remember what it was, by the way. It
23 wasn't about the molester. The question was asked of Daniel
24 Mahon, "Do you do more than just talk about your beliefs?"

15:04:48 25 That was the question that prompted his answer. And his

15:04:50 1 answer was, "Yes, and it's like a military operation; you plan
2 for it, you equip for it."

3 You see the manuals Dennis Mahon sent. He's sending
4 the informant manuals, and I'll show them to you in a minute.

15:05:05 5 Military manuals, military magazine how to conduct military
6 operations.

7 The manual about -- the resistance manual in his
8 room; a military type manual.

9 The label. Dennis Mahon gives you a piece of
15:05:21 10 information about the label. And this is not about stick-ons.

11 (Video played.)

12 MR. BOYLE: Kinko's. Rent a typewriter. And then
13 why the note.

14 (Video played.)

15:06:29 15 MR. BOYLE: You heard the call from Dennis and
16 Robert -- or Mr. Kountze talking about how Dennis is the
17 archangel. How often do you use the word "archangel" in your
18 discussions with people? Exhibit 206.

19 You heard testimony about Edmund Burke Society, about
15:06:47 20 a white Western Canada.

21 Remember Exhibit 167 where Dennis Mahon is soliciting
22 money for the Heritage Front. That's not a passing connection
23 to this group. In this exhibit you see he's collecting money
24 for the Heritage Front. On the second page you will see it
15:07:03 25 corroborates the fact he was there.

15:07:07 1 Gloves. Exhibit 40 discussing how it's important to
2 wear gloves.

3 DNA. This is a picture of some of the evidence taken
4 from the scene. Some of the hair that was taken from the
15:07:19 5 scene.

6 You have to remember the DNA analogy that was used by
7 Mr. Staub where he says if you swab a teller counter at a
8 bank, you can get all sorts of profiles because a lot of
9 people can go to that location. That's just different than
15:07:34 10 getting a drop of blood or, in a rape case, finding the semen
11 inside of someone that can only be from the rapist.

12 You have to understand the context of the DNA. And
13 then you have to understand the contamination from
14 Mr. Moberley and people he touched. And we don't know who was
15:07:49 15 in that scene. We know the police when they arrived secured
16 the scene. After the bomb went off, we just don't know who
17 was inside that building running around looking for more
18 people. EMTs making sure the room was clear and no one else
19 was injured and lying on the ground inside dying. You would
15:08:09 20 expect people to go in there immediately to make sure no one
21 else was hurt. People would have gone back into that scene.

22 You've heard over and over where Dennis Mahon
23 describes how you buy ingredients from several different
24 locations. Always cash, no credit cards.

15:08:27 25 Here's why you know it's not police. Here's how you

15:08:30 1 know. Because in this case you would have to think that the
2 very person that Dennis Mahon called in September just
3 happened to be the same people that the police wanted to bomb
4 in February. And then it just happened to be at the very same
15:08:44 5 time Dennis Mahon writes the will, the very will that he sends
6 certified mail. And then you have to believe the letter is
7 dropped off at the same time or about the same time as the
8 bomb, that that is just a coincidence. And that it just
9 happens to be that what Dennis Mahon writes in his will is in
15:09:01 10 memory of a man who went down fighting against federal agents
11 and in memory of Tim McVeigh.

12 All of those things all happened together at the same
13 exact time. That the police picked the very person Dennis
14 Mahon was fixated on and they did all of these things and they
15:09:18 15 just all happened to coincide at the exact same time. And
16 then Dennis Mahon just happens to know that it's a 1-by-5-inch
17 pipe bomb and he happens to know that there's no fingerprints
18 and all of the other evidence I've just described.

19 There is no way for him to have corresponded all of
15:09:33 20 that personal information and all of that timing with some
21 other person. And the reason for that is Dennis Mahon had
22 called that office. He did say that white people on behalf of
23 WAR are standing up. And standing up, as you heard from the
24 National Geographic video, isn't mailing letters, it's not
15:09:52 25 leaving leaflets. It's direct action. He says, "Propaganda

15:09:56 1 is out for us. Violence is the only way."

2 Your elements on conspiracy. It's an agreement
3 between two or more people knowing the object was to bomb or
4 build -- bomb or burn buildings or property and that just one
15:10:14 5 person has to commit an overt act.

6 You're going to see an instruction that says the
7 actual completion doesn't have to happen. As long as they've
8 agreed and taken one step.

9 Like a football field. If you're on the field and
15:10:29 10 you're one the one yard line and you run a play and get to the
11 five yard line, that's an act. In this case you've seen about
12 20 or 40 overt acts marching all the way down the field.

13 You don't to have wait for the M-80s with the ball
14 bearings to be thrown off a building into a crowd. There's
15:10:46 15 only one purpose for those things. You can't light that on
16 the ground and get away. You heard testimony those things
17 expel faster than a bullet when they're shot out. There's
18 only one purpose for an M-80 with ball bearings, and that's,
19 as I will describe for you later, corresponding to a call with
15:11:02 20 Tom Metzger.

21 We heard a lot of talk about hating informants.
22 Perhaps informants are easy people to dislike. But informants
23 are a necessary tool for law enforcement. There's no verdict
24 form that says you have to decide also you if you like
15:11:16 25 informants. Your verdict is based on the elements of the

1 offense and whether the government has proven those elements.

2 And someone has to say here, does this make any sense
3 anyway? Like, Dennis really liked her, he lusted after her,
4 he wanted to marry her, so therefore he taught her how to bomb
5 and burn and kill people? I mean those two things don't match
6 up. Because there is a line here between speech and action.

7 Your jury instruction at 4.10 will tell you law
8 enforcement officials may engage in stealth and deception.

9 It's not a defense that some people did a lot more
10 than other people. I'm going to present a fair amount of
11 evidence about Daniel Mahon in a second, but as long as you're
12 a member of that conspiracy and one member takes an overt act,
13 you're both responsible if you're involved in that conspiracy,
14 which in this case was to bomb and burn buildings and property
15 on behalf of WAR.

16 The overt act. The overt act doesn't have to be a
17 crime. You can have a book on blowing up buildings if you
18 want. You can mail it to your friend if you want. There's no
19 crime in that. You have a First Amendment right to those
20 things.

21 But, if it is part of your scheme to teach someone
22 how to bomb, that you intend for them to bomb, you have a
23 conspiracy to bomb and burn buildings, then it is what would
24 otherwise perhaps be a lawful act now being an overt act of
25 the conspiracy.

15:12:46 1 Sending her down to meet Robert Joos. Go send
2 someone down to talk to the guy. But if you're sending the
3 person down there so she can learn how to use timers and
4 explosives, that's an overt act.

15:13:00 5 There a lot of these words I put here: Teaching;
6 prompting; soliciting money; hiding evidence; advising people,
7 hey, don't use the computer for this, they might find it;
8 encouraging; Tom Metzger, hey, what's Dan done lately. All
9 overt acts. And there is only one conspiracy here, as I
15:13:18 10 described for you. It's on behalf of WAR and it meets the
11 elements of the offense.

12 Exhibit 1 gives you all of the pieces you need to
13 talk about Dennis Mahon's motive. It's not a motive to mail
14 things, it's a motive to commit violence now -- some now,
15:13:38 15 perhaps meaning we won't have a whole lot more later.

16 All these connections to WAR. Dennis joining WAR in
17 1992. In 2009, the goal of the struggle: to create racial
18 tension, to make racial discord. That's the object you hear
19 in this. Very simple in this case. It's to promote racial
15:14:06 20 discord. That's what they stand for.

21 "We don't want Mexicans in the United States, we're
22 going to burn down buildings that hire Mexicans. We're going
23 to segregate the country."

24 All of that is in Exhibit Number 1. They're not our
15:14:17 25 words, they're Dennis Mahon's words. He chose them.

15:14:20 1 This whole group is decided -- dedicated on the idea
2 of tolerance is suicide; the worst thing you can do is
3 nothing.

4 And then Dennis, you may find, wrote "for stand up
15:14:33 5 whites."

6 The KARE TV video. Number 5. Dennis talks about at
7 the very end, blast a few of them.

8 Exhibit Number 73, bombing news clips, Dennis Mahon.

9 Exhibit 1: "I'm a lieutenant of Tom's." He says,
15:14:55 10 "Be violent in a very intelligent way. Set your targets high.
11 Don't just beat a black person up on the street."

12 Exhibit 9 is a recording. Again, there's no
13 informant on Exhibit 9, but you hear that Dennis and Tom are
14 talking about --

15:15:19 15 (Audio played.)

16 MR. BOYLE: There's no conspiracy when the only
17 person that one defendant conspires with is an informant. But
18 if there are numerous conspirators, as you've seen here, then
19 you've satisfied part of the instruction.

15:15:47 20 There's a line here and the defendant's crossed way
21 past the line. The line was violence on behalf of WAR. Talk
22 all you want. When you start training people to kill and bomb
23 and burn, you have crossed the line. And you have seen that
24 over and over.

15:16:08 25 Call 46. Daniel Mahon. Talk about knowledge of the

15:16:12 1 conspiracy, he tells you he has knowledge. He tells you in
2 that call. He says, "I told you, Dennis, there's two people
3 you shouldn't be letting on here, that girl and Kountze."

4 He knows, without even having to say what it is,
15:16:29 5 there were two people they shouldn't be talking to, and that's
6 Kountze and the informant.

7 Exhibit 154 is where Metzger says "What's Dan done
8 lately?" And then Dennis talks -- Dennis' answer is the
9 important part of this, the evidence, and he says, "I couldn't
15:16:47 10 have done anything without Dan."

11 What's important about this is it matches 48, which
12 has a date of 12/11, where Daniel has the same thing. He's
13 saying, "listen, we've been on the sidelines for a while.
14 What have you done lately?" He said, "We've got to start
15:17:03 15 getting violent again."

16 Metzger and Daniel Mahon have the same exact thought,
17 which is they went back to Rockford taking care of their
18 parents and haven't done anything for a while and both of them
19 around the same date are saying the same thing: we've got to
15:17:19 20 get back in the game.

21 I'm going to give these examples, but Daniel Mahon in
22 Exhibit 48 says "We have to start getting violent." Not
23 "you."

24 Another action. This idea of the farm.

15:17:32 25 (Video played.)

15:17:45 1 MR. BOYLE: Because he says three months ago --
2 (Video played.)
3 MR. BOYLE: "Three months ago I told you, get rid of
4 the stuff." That's why it wasn't there.
15:18:01 5 Dennis talking about Daniel's explosives.
6 (Video played.)
7 MR. BOYLE: Daniel and Dennis, they want to brag to
8 each other --
9 (Audio played.)
15:18:38 10 MR. BOYLE: "We are professionals." "We" are.
11 Consciousness of guilt. Exhibit 221.
12 (Video played.)
13 MR. BOYLE: They knew. They knew. They knew this
14 day was coming for them.
15:18:58 15 Dennis insisting city building --
16 (Video played.)
17 MR. BOYLE: I want to play a couple more and then
18 I'll be done here in about three minutes.
19 This is before Catoosa. Dennis is talking about
15:19:29 20 motive. "If you do this bomb for the molester, then they'll
21 look for you because you have motive." Daniel says, "Just
22 plan for it." Look at the time stamp.
23 (Video played.)
24 MR. BOYLE: "Think about it before you do it. Just
15:20:12 25 plan for it, you'll be okay." That's Daniel Mahon. Look at

15:20:16 1 the time stamp. Look at it yourself.

2 "Everywhere we go bombs go off" in Exhibit 181.

3 Agent Bettendorf described for you how he wrote a
4 report ten days after, not seven years later when he comes to
15:20:32 5 court. Ten days after the events that happened in Catoosa he
6 said he wrote a report and he describes how Daniel said, "We
7 do more than talk about our beliefs."

8 Daniel and Dennis talking about don't look on the
9 computer about Scottsdale bombing in Exhibit 185.

15:20:48 10 Exhibit 50. Daniel Mahon talking about, again, the
11 business end of this. Businesses hiring Mexicans, get some
12 alcohol, throw it through a window, burn it to the ground.

13 Talking about making fire with smoke. You know who
14 knew how to make fire? Daniel Mahon. He knew how to make
15:21:07 15 phosphorus fire in a gas take blow up, make fire; knew how to
16 put alcohol in a bottle and make fire. Dennis knew how to
17 make fire by putting a propane tank next to a house and then
18 when the molester comes home he would open the door and the
19 house blows up.

15:21:23 20 In Catoosa you have Dan and -- Dennis talks about how
21 he and Dan are so close he doesn't mind if Dan gets her
22 pregnant because that would be the same because they're
23 genetically the same. That's at 18:38:33 on the 4th.

24 The book says what they do is selective
15:21:40 25 assassination. Exhibit 37.

15:21:45 1 Exhibit 13. No answer for this. Conspiratorial
2 talk. Metzger telling, giving orders to Dennis, "I told you
3 to drop that guy. He's a leak. He's an informant."

4 If you listen to some calls, you have to listen to
15:21:59 5 Exhibit 13, I would suggest to you. That's up to you.

6 13. Tom Metzger saying "that guy's a leak." Who has
7 conversations like this? The only people who say this
8 person's a leak is when you're involved in a conspiracy.

9 And then finally this call as well. Those two, 13
15:22:18 10 and 156 where Tom Metzger -- this is the two days after the
11 swab and Dennis says, "I'll never betray you, I won't
12 implicate you." They don't even have to talk about what it is
13 he won't implicate him about. He doesn't say "what are you
14 talking about?" In these two first portions of this, he says,
15:22:36 15 "I know you wouldn't betray me."

16 There's only one purpose for the M-80s.

17 Exhibit 220. When you listen to it, Dennis -- first
18 thing on it I flipped to is Dennis says "Tom Metzger told me
19 not to drop pipe bombs into a rally."

15:23:03 20 Instructions from Tom Metzger to Dennis. Again,
21 another description of their conspiracy. Tom giving orders to
22 Dennis: "told me not to do it."

23 And then there's the Exhibit 160 where they talk
24 about May 1st again and Dennis says, "Drop a few M-80s down
15:23:17 25 there." Again, being on a building and dropping it down.

15:23:22 1 Joos. This guy's teaching things like Napalm,
2 timers, explosives.

3 Exhibit 61 talks about a recipe and a bucket.

4 You have the letters in 58, 59, and 60.

15:23:41 5 Exhibit 42, more discussion about Tom and Dennis and
6 Kountze being an informant and he keeps saying "Tom, I don't
7 tell anybody what I've done."

8 The sleeve of white resistance papers on the shelf in
9 Dennis' room.

15:23:58 10 And finally this: The end result of the conspiracy.

11 The conspiracy had a consequence. It had a
12 consequence for the people in that building: Donald Logan,
13 Renita Linyard.

14 Dennis Mahon -- this is my last 30 seconds for you --
15:24:16 15 says "Tom's way is the only way." He says, "He's the man with
16 the answers." He says, "Violence is the only goddamn thing
17 the government understands."

18 Tom's way, Dennis' way, Daniel's way, bombing and
19 arson on behalf of WAR. They're not the only way. But they
15:24:34 20 are the way, from the evidence, that shows you that they are
21 guilty of counts 1, 2, and 3.

22 Thank you.

23 THE COURT: All right. Thank you, Mr. Boyle.

24 (End of transcript.)

15:24:44 25 * * * * *

C E R T I F I C A T E

I, PATRICIA LYONS, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control, and to the best of my ability.

DATED at Phoenix, Arizona, this 19th day of March, 2012.

s/ Patricia Lyons, RMR, CRR
Official Court Reporter